UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/549,370	04/13/2000	Michael Brader-Araje	9144-5	8285

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EXAMINER
GART, MATTHEW S

ART UNIT	PAPER NUMBER
3625	

DATE MAILED: 12/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/549,370	BRADER-ARAJE ET AL.
	Examiner	Art Unit	
	Matthew S. Gart	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 October 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,4-6,8,9 and 54-58* is/are pending in the application.

   4a) Of the above claim(s) *10-53* is/are withdrawn from consideration.

5)☒ Claim(s) *4-6,8 and 9* is/are allowed.

6)☒ Claim(s) *1,2,54-58* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Prosecution History Summary

- Claims 1-2, 4-6, 8-9 and 54-58 are pending in the instant application.

- Claims 10-53 have been cancelled without prejudice.

- Claims 55-58 have been added.

- Claims 1-2 and 54-58 are rejected under 35 U.S.C. 103(a).

Allowable Subject Matter

- Claims 4-6, 8 and 9 are allowable over the prior art of record.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-2 and 54-58 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Srinivasan (U.S. Patent No. 7,047,210) in view of Ortega (U.S.

Patent No. 6,549,904).

Referring to claim 1. Srinivasan discloses a method of monitoring information

maintained at an intermediary web site (Srinivasan: Fig. 1, "Scan Site **18**") on a

computer network (Srinivasan: Fig. 1, "**16**") about items being auctioned at a plurality of

remotely located auction sites (Srinivasan: column 3, lines 54-64, "Auction site **22** may

include a plurality of auction sites and may also be running in the same site as scan site

18.") on the computer network, wherein the information is displayable to users

accessing the intermediary web site via the computer network (Srinivasan: column 3,

line 65 to column 4, line 10).

Srinivasan does not expressly disclose a method of updating auction information.

Ortega discloses a method of updating auction information, the method

comprising:

- Obtaining auction item data that has changed since a previous time for auctions

  currently being conducted at a respective auction site, wherein the auction site

includes a data engine that is configured to obtain data about each item currently

being auctioned at the auction site, and wherein a web site includes an agent

that is configured to communicate with and retrieve auction item data from a

auction site data engine (Ortega: abstract, "The notification system periodically

determines whether any new auctions satisfy a selection specification by

submitting a query to an auction database and then notifies the users when new

auctions are identified. The notification may include a list of auctions that is

sorted based on access patterns of users who are presented with lists of

auctions using selection specifications with similar category, attribute, or keyword

values."), comprising:

- o Establishing a TCP/IP connection (Ortega: Fig. 4, "403") between the

  agent (Ortega: Fig. 4, "402") and each respective data engine (Ortega:

  Fig. 4, "404"); and

- o Sending an HTTP request from the agent (Ortega: Fig. 4, "402") to each

  respective data engine via the TCP/IP connection to obtain auction item

  data that has changed since a previous time (Ortega: at least column 5,

  line 66 to column 7, line 44, "The request notification component inputs

  selection specifications from users and stores those selection

  specifications in the selection specification database. The send notification

  component periodically determines whether any new auctions satisfy each

  selection specification in the selection specification database. When a new

auction is identified for a selection specification, the notification system

notifies the users who are mapped to that selection specification.");

- o Extracting keywords from the obtained item data (Ortega: Fig. 1); and

- o Storing the extracted keywords, wherein the stored keywords are

    searchable by users accessing the intermediary web site (Ortega: column

    4, line 58 to column 5, line 18).

It would have been obvious to one of ordinary skill in the art to have incorporated

the invention of Srinivasan in a method for updating auction item data (as taught by

Ortega) in order to fulfill a need for Internet based auctions in which the basic principles

of supply and demand are followed more accurately than existing Internet based

auctions (Srinivasan: column 1, lines 42-45).

Referring to claim 2. Srinivasan in view of Ortega discloses a method according

to claim 1 as indicated supra. Ortega further discloses a method wherein obtaining

auction item data that has changed since a previous time is performed at predetermined

time intervals (Ortega: column 10, lines 27-29).

It would have been obvious to one of ordinary skill in the art to have incorporated

the invention of Srinivasan in a method for updating auction item data (as taught by

Ortega) in order to fulfill a need for Internet based auctions in which the basic principles

of supply and demand are followed more accurately than existing Internet based

auctions (Srinivasan: column 1, lines 42-45).

Referring to claim 54-58. The limitations of claim 54-58 closely parallel those of

claims 1-2. Claims 54-58 are rejected under the same rationale as set forth above in

claims 1-2.

Response to Arguments

Applicant's arguments with respect to claims 1-2 and 54-58 are not persuasive.

The Attorney argues that neither reference discloses making the items being auctioned displayable to users accessing an Intermediary web site.

The Examiner notes, in operation, scan site **18** monitors auction site **22** to compare the lists of products desired by buyer **12** with the list of products being auctioned by seller **14**. Auction site **22** may include a plurality of auction sites and may also be running in the same site as scan site **18**.

The Examiner further notes, view items GUI screen **68** is displayable upon the buyer selecting view auction items button **41** in main menu screen **40** or view items button **66** in wanted to buy menu screen **64**. View items screen **68** includes the same information found in Auction site **22**, and therefore makes the items being auctioned displayable to users accessing the Intermediary web site.

The Attorney argues that Ortega does not disclose obtaining auction data from a plurality of auction sites.

The Examiner notes, Srinivasan was used to show this feature (Srinivasan: column 3, lines 54-64, "Auction site **22** may include a plurality of auction sites and may also be running in the same site as scan site **18**.").

The Attorney argues that Ortega does not disclose extracting keywords from the obtained auction item data.

The Examiner notes, Ortega was cited to show extracting keywords from the obtained item data (Ortega: Fig. 1), not extracting keywords from the obtained <u>auction</u> item data. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The Attorney argues that Ortega does not disclose storing the extracted keywords.

The Examiner notes, the notification system of the web server receives, normalizes, and stores the keywords (Ortega: column 4, line 58 to column 5, line 18). The Attorney further argues that Ortega does not disclose storing the extracted keywords wherein <u>each stored keyword is associated with an item currently being auction</u>. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The Attorney argues that the keywords are not searchable.

The Examiner notes, FIG. 2 illustrates a sample notification message that is sent via electronic mail to a user. In this example, the electronic mail message **200** includes an indication of the selection specification **201** and includes links **202** to the auction web pages that satisfy the selection specification. To identify the auctions that satisfy the selection specification, the server submits a query to an auction database and receives a query result that lists the auctions that satisfy the query. In this example, the query may specify to <u>search</u> for auctions that contain both "Barbie" and "1960" in a description field. "Barbie" and "1960" are keywords.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Matthew S. Gart whose telephone number is 571-272-

3955. The examiner can normally be reached on M-F, 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Jeff Smith can be reached on 571-272-6763. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

MSG.
Primary Examiner
December 7, 2006

MATTHEW S. GART
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